

REMARKS

Claims 1-26 have been cancelled, and claims 27-46 have been added.

The claimed invention is not anticipated by Boah. Boah does not disclose a film made of polyester, polyetherimide, polyethersulfone, polysufone or polyimide as claimed. Boah discloses a heat exchanger having a film made of polyolefin. Therefore, the claimed invention is not anticipated over Boah.

The claimed invention is not obvious in view of Boah. The Examiner states that it is well known in the art that there are more than one material that is capable of being used to prevent a metal surface from corrosion. The Examiner also states that it appears that the anti-corrosion effect of the heat exchanger surface is equally achieved with the use of other anti-corrosion materials, such as the polypropylene taught by Boah. Applicant respectfully disagrees.

The Examiner supplies no evidence of these assertions. Applicant cannot respond without the evidence, and thus asks that the holding be dropped or the evidence supplied. Notably, the relevant question is not whether polyester, polyetherimide, polyethersulfone, polysufone or polyimide has ever been used anywhere. Instead, the question is whether it would have been obvious to employ these materials in the claimed environment. Clearly, it would not have been.

Additionally, this is clearly a use of hindsight reconstruction. It is impermissible to engage in hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from the references to fill the gaps. The references themselves must provide some teaching whereby the applicant's combination would have been obvious. In re Gorman, 933 F.2d 982, 986, 18USPQ2d 1885, 1888 (Fed. Cir. 1991). There simply is no suggestion in the references, or in the prior art as a whole, that suggests the desirability of using these materials.

There is no suggestion to replace the polypropylene layer of Boah with a layer of polyester, polyetherimide, polyethersulfone, polysufone or polyimide. It is impermissible to modify a base reference in a manner that defeats the benefits achieved by the teachings of the reference. Boah teaches the use of a polypropylene layer. To eliminate the polypropylene layer and replace it with a layer of polyester, polyetherimide, polyethersulfone, polysufone or polyimide would defeat the benefits achieved by Boah. There is no support that using a layer of polyester, polyetherimide, polyethersulfone, polysufone or polyimide would satisfy all of the

problems solved by using the polypropylene layer of Boah or would perform in any way better than the structure already provided by Boah.

Nothing in Boah would have led one of ordinary skill in the art to believe that Boah's polypropylene layer was in any way deficient for Boah's purposes or was in need of modification. One of ordinary skill in the art would have found no reason, suggestion, or incentive for modifying the heat exchanger of Boah other than through the luxury of hindsight accorded one who first viewed Applicant's disclosure. This is not a proper basis for a rejection under 35 U.S.C. 103. The claimed invention is not obvious, and Applicant requests that the rejection be withdrawn.

Thus, claims 27-46 are in condition for allowance. The Commissioner is authorized to charge Deposit Account No. 03-0835 in the name of Carrier Corporation for \$910.00 for the REC filing fee (\$790.00) and a one-month extension of time (\$120.00). If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.

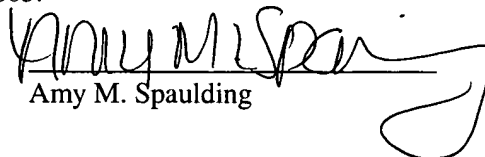


Karin H. Butchko
Registration No. 45,864
400 West Maple Road, Suite 350
Birmingham, Michigan 48009
Telephone: (248) 988-8360
Facsimile: (248) 988-8363

Dated: January 21, 2005

CERTIFICATE OF MAILING

I hereby certify that the attached response is being deposited with the U.S. Postal Service as First Class Mailing, postage prepaid, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 21, 2005.



Amy M. Spaulding